



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1098

FISCAL NOTE

Drafting Number: LLS 20-0749
Prime Sponsors: Rep. Williams D.

Date: February 5, 2020
Bill Status: House SVMA
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Bill Topic: PROHIBITION ON ABORTION AFTER TWENTY-TWO WEEKS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill prohibits licensed physicians from performing an abortion if the gestational age is at least 22 weeks. This bill increases state revenue and state and local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

The measure prohibits licensed physicians from performing an abortion if the gestational age is at least 22 weeks, as determined using best medical practices. The measure requires physicians to make a determination of the probable gestational age before performing any abortion. Under the bill, performing or attempting to perform an abortion after 22 weeks gestational age is a class 1 misdemeanor. Persons convicted of this offense may only be subject to a fine penalty and not jail time. Performing a prohibited abortion constitutes unprofessional conduct for the purposes of physician licensing. A licensed physician found in violation will have his or her license suspended for at least three years. Abortion after 22 weeks gestational age is not a crime if, in the reasonable medical judgement of the physician, it is necessary to save the life of the mother. In addition, a woman who has an abortion performed or any person who fills a prescription or provides equipment used during an abortion does not commit an offense under this measure.

Background

Gestational age, as defined under the bill, is measured as the time that has elapsed from the first day of the woman's last menstrual period.

Federal law requires that state health programs receiving federal funding provide coverage for abortion services if the pregnancy results from rape or incest or if continuing the pregnancy would put the woman's life in danger. Colorado's Medicaid and Children's Health Plan Plus (CHP+) programs are subject to these requirements.

Comparable Crime Analysis

Legislative Council Staff includes certain information in fiscal notes for any measure that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. The following sections outline data on crimes that are comparable to the offense in this measure and discuss assumptions on future rates of criminal convictions under the measure.

Prior conviction data. This measure creates the crime of performing or attempting to perform an abortion if the probable gestational age is at least 22 weeks, a class 1 misdemeanor. To form an estimate on the prevalence of new crimes, the fiscal note considered the comparable crime of unlawful termination of pregnancy in the first degree. From 2017 to 2019, there have been one person convicted and sentenced for this existing offense. The person was male and White. However, unlawful termination of pregnancy refers to the termination of a pregnancy by any means other than birth or a medical procedure. This offense is not applicable to the new crime created by this measure; therefore, this data was not used in the fiscal note assumptions.

Assumptions. The fiscal note assumes a high rate of compliance with the provisions of the measure. This analysis assumes that there will be less than five criminal cases filed for this offense and that approximately one offender will be convicted and assessed a fine penalty every five years.

State Revenue and Expenditures

Starting in FY 2020-21, the bill impact state revenue and expenditures, as described below.

Criminal and civil penalties. This analysis assumes that there will be a minimal impact on civil and criminal case filings. As a result, any increase of fines and court fees and related TABOR impact is expected to be minimal. Similarly, potential workload increases for the Judicial Department, the Division of Probation, agencies that provide representation to indigent persons, and the Department of Corrections, require no change in appropriations. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Department of Regulatory Agencies. This bill increases workload in the Medical Board in the Department of Regulatory Agencies, to hear additional hearings for unprofessional conduct in front of the Medical Board. Based on the assumptions listed above, any increases in expenditures and workload are assumed to be minimal.

Department of Health Care Policy and Financing. As described above, Colorado's Medicaid and Children's Health Plan Plus (CHP+) programs are subject to federal requirements mandating that a state provide coverage for abortion services if the pregnancy results from rape or incest or if continuing the pregnancy would put the woman's life in danger. To remain compliant with federal law, the department may be required to transport a woman pregnant as a result of rape or incest to another state to obtain an abortion. As it is unknown how often this will occur, the fiscal impact cannot be determined. This analysis assumes such instances are rare, and that any change in appropriations will be addressed through the annual budget process, if required.

Local Government Impact

Similar to the state, it is expected that any workload or cost increase for district attorneys to prosecute the new class 1 misdemeanor under the bill will be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Corrections
Judicial

Health Care Policy and Financing
Personnel

Information Technology
Regulatory Agencies